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IN THE UNITED STATES DISTRICT COURT FOR THE
2
                 NORTHERN DISTRICT OF OKLAHOMA
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4
    W. A. DREW EDMONDSON, in his ) capacity as ATTORNEY GENERAL )
5
    OF THE STATE OF OKLAHOMA and
    OKLAHOMA SECRETARY OF THE
6
    ENVIRONMENT C. MILES TOLBERT,
     in his capacity as the
7
    TRUSTEE FOR NATURAL RESOURCES)
    FOR THE STATE OF OKLAHOMA,
8
               Plaintiff,
                                    ) No. 4:05-CV-00329-TCK-SAJ
    vs.
10
    TYSON FOODS, INC., et al,
11
               Defendants.
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13
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15
                   THE VIDEO DEPOSITION OF DAVID BERRY,
16
    produced as a witness on behalf of the Defendants, in
17
    the above styled and numbered cause, taken on the 29th
18
    day of August, 2007, in the City of Tulsa, County of
19
    Tulsa, State of Oklahoma, before me, Marlene Percefull,
20
    Certified Shorthand Reporter, duly certified under and
21
    by virtue of the laws of the State of Oklahoma.
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A P P E A R A N C E S
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                                                 Ms. Sharon K. Weaver
Ms. Holly M. Hillerman
Attorney at Law
502 W. 6th St.
Tulsa, OK 74101
      FOR THE PLAINTIFF:
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 6
                                                  Mr. Michael Bond
Attorney at Law
      FOR TYSON FOODS:
                                                  The Three Sister Bldg.
214 West Dickson Street
Fayetteville, AR 72701
 8
                                                   -and-
 9
                                                  Mr. Robert George
                                                  (via phone)
10
                                                  Ms. Theresa Noble Hill
Ms. Carla Jimerson
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      FOR CARGILL:
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                                                  Tulsa, OK 74103
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                                                  -and-
                                                  Mr. John Tucker (via phone)
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      FOR SIMMONS FOODS:
                                                  Mr. John Elrod
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211 East Dickson Street
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      FOR PETERSON FARMS:
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                                                  Mr. Craig Mirkes
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      FOR GEORGE'S:
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FOR CAL-MAINE: Mr. Robert Sanders Mr. Robert Sanders Attorney at Law 2000 Amsouth Plaza P. O. Box 23059 Jackson, MS 39225 (via phone) Ms. Jennifer Griffin Attorney at Law 314 East High Street Jefferson City, MO 65109 FOR WILLOW BROOK: (via phone) FOR OK DEPARTMENT OF AGRICULTURE5: Ms. Janet Stewart Attorney at Law 2800 No. Lincoln Blvd. Oklahoma City, OK 73152

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telephone also do the same?
                                                            9:05AM
 2
             MS. GRIFFIN: Jennifer Griffin on behalf
     of Willow Brook Foods.
              MR. SANDERS: Bob Sanders on behalf of
 4
 5
    Cal-Maine.
                                                            9:05AM
              THE VIDEOGRAPHER: Thank you. The witness
 7
    may be sworn.
 8
                       DAVID BERRY,
 9
     having first been duly sworn to testify to the truth,
10
     the whole truth and nothing but the truth, testified as
11
    follows:
12
                    DIRECT EXAMINATION
13
    BY MR. GRAVES:
14
    Q Could you state your full name?
15
       David Berry.
                                                            9:05AM
16
     Q And, Mr. Berry, what is your address?
17
    A P.O. Box 488, Locust Grove, Oklahoma, 74352.
    Q And do you actually live in Locust Grove or is
18
19
     that in the country somewhere?
       I live about three miles outside of Locust Grove
                                                            9:06AM
21
    in the country.
22
     Q Okay. Mr. Berry, have you ever given a deposition
23
    before?
       Years ago.
25
       Okay. I'll just go through a few basics of giving 9:06AM
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1	A I have a Larry Emerson.	4:03PM
2	Do you know who he contracts with?	
3	A No. He grows turkeys.	
4	• Where is he located?	
5	A Tahlequah.	4:03PM
6	Q Is he in the Illinois River watershed?	
7	A Yeah, he would be Tenkiller.	
8	Q Have you had any problems or concerns with any of	
9	your turkey growers?	
10	A Not that I can recall, I mean	4:03PM
11	Q So as far as you can recall sitting here today and	
12	the records we looked at for Mr. Schwabe, the turkey	
13	growers that you inspect have been in compliance with	
14	the Act?	
15	A To the best of my knowledge, yes, ma'am.	4:03PM
16	MS. HILL: All right. That's all the	
17	questions I have for you. Thank you.	
18	THE WITNESS: Thank you, ma'am.	
19	CROSS EXAMINATION	
20	BY MR. ELROD:	4:04PM
21	Q Mr. Berry, my name is John Elrod. I represent	
22	Simmons Foods in Siloam Springs. Thank you for being	
23	with us today.	
24	A Thank you, sir.	
25	Q Are you having fun?	4:04PM

			253
1	A	Well, if a poultry grower sells it and he's	4:24PM
2	gett	ing paid for it, then I suppose it's his litter,	
3	whoe	ever's getting the check for it who owned it.	
4	Q	Okay. And then whoever pays for it?	
5	A	Now it's theirs.	4:24PM
6	Q	They own it?	
7	A	Yes.	
8	Q	There's a fair amount of trade, if you understand	
9	what	I mean, in poultry litter in the Illinois	
10	wate	ershed, correct?	4:24PM
11	A	Correct.	
12	Q	You're aware that poultry litter is transported	
13	out	of the watershed, correct?	
14	A	Yes, sir.	
15	Q	Okay. Are you aware of who does that?	4:24PM
16	A	A little bit.	
17	Q	Is it some of these commercial applicators?	
18	A	Yes, sir.	
19	Q	Okay. And not all poultry litter produced in the	
20	Illi	nois River watershed is applied in the Illinois	4:25PM
21	Rive	er watershed, correct?	
22	A	That's correct.	
23	Q	In fact, a lot of it is not applied in the	
24	Illi	nois watershed?	
25	A	I don't know the number of how much is transported	4:25PM